

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)
)
Advanced Television Systems)
)
and Their Impact Upon the)
Existing Television Broadcast Service)

MM Docket No. 87-268

**REPLY TO OPPOSITIONS TO
PETITION FOR RECONSIDERATION**

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July 28, 1997

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**REPLY TO OPPOSITIONS TO
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The Association of Local Television Stations, Inc. ("ALTV"), hereby replies to the oppositions to its Petition for Reconsideration with respect to the Commission's *Sixth Report and Order* in the above-captioned proceeding.¹

In its Petition for Reconsideration, ALTV urged the Commission to adopt a slightly more flexible policy with respect to power increases for DTV facilities. ALTV pointed out that in light of the exceedingly low power levels assigned to many U-to-U DTV stations, the ability of UHF DTV stations to thrive was in considerable doubt. ALTV, therefore, offered the following proposal to permit power increases by U-to-U DTV stations on a case-by-case basis, pursuant to a more flexible definition of interference and other specific public interest criteria. First, ALTV urged the Commission to reaffirm that DTV stations may increase power even if some additional interference is created, provided the licensees of the stations subject to additional interference agree to accept the additional interference. Second, the Commission should modify the criteria for showings that no additional interference would result from a proposed DTV station power increase. Specifically, the Commission should permit showings based on a somewhat less conservative definition of DTV-to-

¹FCC 97-115 (released April 21, 1997), 62 *Fed. Reg.* 26683 (Wednesday, May 13, 1997) [hereinafter cited as *Sixth Report and Order*].

NTSC interference (*i.e.*, the predicted field strength of the undesired or interfering signal would be determined using F(50,50) curves in lieu of F(50,10) curves for purposes of predicting interference within an NTSC station's predicted Grade B coverage area). The Commission would determine whether the showing was adequate based on several public interest criteria, as follows:

- The cumulative effect of additional interference (based on the current worst-case definition) to the station that could result from power increases by other proximate co-channel, adjacent channel, and taboo channel stations;
- Whether the new interference area is located in the station's Designated Market Area ("DMA");
- Whether the geographic area in which the new interference occurs represents more than 5% of the area within the predicted Grade B contour of the station accepting interference;
- Whether the population in the geographic area in which the new interference occurs represents more than 5% of the population within the predicted Grade B contour of the station accepting interference; and
- Whether the proposed power increase is necessary to assure growth and development of DTV in the applicant's market.

Under ALTV's proposal, existing definitions of interference would be used to assess DTV-to-DTV interference and interference within the predicted Grade A contour of an NTSC station accepting new interference. No new potential interference either to UHF DTV stations or within the Grade A contours of UHF NTSC stations would be permitted. No changes in the DTV channel allotments were contemplated.

ALTV's petition has drawn more than passing mention only from the Association for Maximum Service Television ("MSTV") and the Broadcasters Caucus.² The Caucus Opposition both neglects and confirms that ALTV's proposal was extraordinarily modest, especially in light of the dimension of the problem it was designed to address. Indeed, only by enlarging ALTV's proposal beyond its true scope can the Caucus Opposition even begin to oppose it. For example,

²Comment On and Opposition to Petitions for Reconsideration of the Fifth and Sixth Reports and Orders Submitted by the Association for Maximum Service Television, Inc. and the Broadcasters Caucus, MM Docket No. 87-268, filed July 18, 1997, the Association for Maximum Service Television, Inc. and the Broadcasters Caucus [hereinafter cited as "Caucus Opposition"].

the Caucus Opposition claims wrongly that ALTV, among others, has “proposed to reduce the interference protection provided throughout a station’s Grade B contour....”³ However, ALTV did *not* propose to “reduce the interference protection provided throughout a station’s Grade B contour,” but only in the outer portion of the Grade B.⁴ Moreover, under ALTV’s proposal, the Commission was to determine whether the geographic area in which the new interference occurs represented more than 5% of the area within the predicted Grade B contour of the station accepting interference, as well as whether the population in the geographic area in which the new interference occurs represents more than 5% of the population within the predicted Grade B contour of the station accepting interference. This hardly suggests the potential for new interference “throughout” a station’s Grade B contour.

The Caucus Opposition further underscores the modest nature of ALTV’s proposal by noting that the Grade A and Grade B contours of UHF stations “are relatively close together.”⁵ Therefore, according to the Caucus Opposition, “power increases permitted and the resulting interference effects would differ dramatically depending” on whether ALTV has proposed to use the F(50,50) interference standard at the Grade B with no regard for new interference at the Grade A or whether the use of the F(50,50) interference standard at the Grade B is subject to limitation by use of the F(50,10) interference standard at the Grade A. ALTV has stated plainly and unambiguously that, under its proposal, “No new potential interference ... within the Grade A

³Caucus Opposition at 14.

⁴ALTV Petition at 13, n.21 (“In other words, even interference predicted using F(50,10) curves must be shown to occur no closer to the NTSC station’s transmitter than any point on any radius determined by bisecting the radius between the predicted Grade A contour and the predicted Grade B contour -- in effect, the outer half of the “doughnut” formed by the predicted Grade B contour and the predicted Grade A contour.”)

⁵Caucus Opposition at 15.

contours of UHF NTSC stations would be permitted.”⁶ Thus, widespread new interference in the core reception areas of UHF NTSC stations never was intended to be the outcome of ALTV’s proposal.⁷

Moreover, widespread new interference would not occur. The Caucus Opposition itself confirms that on a per station basis, additional interference would be minuscule. If, for example, 610 NTSC stations suffer new interference in the aggregate in 46,778 square kilometers, then the average station would suffer interference in an area of 76.6 square kilometers, which typically would amount to less than one per cent of their NTSC coverage areas.⁸ Similarly, if 737 NTSC stations suffer new interference in the aggregate in 41,950 square kilometers, then the average station would suffer interference in an area of 56.9 square kilometers, which, again, typically would amount to less than one per cent of their NTSC coverage areas.⁹ If these amount to 22 or 35 per cent increases in interference, then original interference projections are themselves quite small - and the cumulative effect remains negligible.¹⁰

⁶ALTV Petition at 3. ALTV respectfully suggests that no basis exists for the statement in the Caucus Opposition that “[I]t is unclear how the proposal to apply the F(50,50) standard to the Grade B would work in practice.” ALTV stated clearly that new potential interference within stations’ Grade A contours was not contemplated by its proposal. ALTV Petition at 3, 12. By creating uncertainty and suggesting that ALTV has proposed to use F(50,50) curves at the Grade B irrespective of effect at the Grade A contour, the Caucus Opposition at best sets up a straw man (which even ALTV would knock down) and at worst unfairly demonizes ALTV’s proposal.

⁷The Caucus Opposition totally ignores other criteria specified by ALTV which would limit the potential for new interference to existing NTSC stations. *See* ALTV Petition at 13-15.

⁸Caucus Opposition at 16.

⁹*Id.*

¹⁰This is precisely what one would expect given the minimal new interference resulting from the Commission’s DTV Table of Allotments. *Sixth Report and Order* at ¶206.

The modest nature of ALTV's proposal is illustrated, too, by the fact that it constitutes a small incremental step from the Commission's newly-adopted rules. First, the Commission will permit stations to increase power with the consent of affected stations -- a rule endorsed by both ALTV and the Caucus Opposition.¹¹ Second, the Commission will consider power increase requests by a limited number of stations to experiment with higher power levels.¹² ALTV's proposal does little more than broaden the scope of the Commission's experimental authorization plan, while subjecting such requests to stringent standards and review by the Commission.

At the same time, the Caucus Opposition takes no issue with the potentially modest effect of additional DTV-to-NTSC interference. Nowhere does it seek to rebut ALTV's assertions that

[N]ew interference which might result from use of a more liberal definition of interference may be of less concern in terms of actual picture quality or viewability. The perceivable effect, if any, is likely to take the form of additional "snow" in the picture. Nothing as disturbing to viewers as ghosting or wavy lines would be expected to occur, as they do in the case of NTSC-to-NTSC interference.¹³

Thus, even assuming that Commission's signal propagation curves are perfect predictors of signal availability -- which, of course, they are not --, the increased interference in limited fringe areas which might result from ALTV's proposal may be of very little practical consequence.

Furthermore, the Caucus Opposition's analysis of the relative costs and benefits of ALTV's proposal has no probative value.¹⁴ First, it nowhere quantifies the benefit of ALTV's proposal beyond noting the number of UHF stations which might be granted power increases. Second, its

¹¹Caucus Opposition at 13-14.

¹²*Sixth Report and Order* at ¶30.

¹³ALTV Petition at 10.

¹⁴Caucus Opposition at 16-17.

allegations of 22 to 35% increases in interference to NTSC stations enjoys no explanation. Third, it seems to equate loss of service at the outer fringe of an NTSC station's Grade B with the inability to provide service within a UHF DTV station's Grade A contour.¹⁵ Therefore, it provides no meaningful analysis of ALTV's proposal.

Finally, with respect to the Caucus Opposition, ALTV must observe that its proposal to revisit the Commission's interference standards after two years involves far more risk to the public interest than ALTV's proposal.¹⁶ Meaningful relief under the Caucus Opposition proposal would come far too late, perhaps, as much as three or four years after stations are expected to apply for their DTV facilities. Handicapping UHF DTV stations in their first few steps out of the starting gate in a way that imperils their ability to serve their core audiences would have a devastating impact on the initiation and success of DTV. On the other hand, an immediate, if modest, proposal to provide some relief to UHF DTV stations -- subject to immediate termination if new harmful interference is detected -- not only spurs DTV development, but also does so in a way that existing service is not threatened.¹⁷ The Caucus Opposition, therefore, misses the mark and ultimately offers no valid objection to ALTV's modest attempt to offer some relief to UHF DTV stations.

¹⁵The severity of the loss of Grade A service is illustrated in ALTV's Opposition to Petition for Clarification and Partial Reconsideration, MM Docket No. 87-268 (filed July 18, 1997), Exhibit 2.

¹⁶Caucus Opposition at 17; *see also* Opposition to Petitions for Reconsideration in the Fifth Report and Order and Sixth Report and Order of the Association of America's Public Television Stations and the Public broadcasting Service, MM Docket No. 87-268, filed July 18, 1997, at 3 [hereinafter cited as "AAPTS/PBS Opposition"]; Response of AK Media Group, Inc., to Petitions for Reconsideration Filed by Granite Broadcasting Corporation, The Association of Local Television Stations, Inc., and Viacom, Inc., MM Docket No. 87-268, filed July 18, 1997, by AK Media Group, Inc., at 5. ALTV does concur to the extent experience reveals the severity of the new DTV "UHF handicap," and more is learned about DTV signal propagation and interference, the Commission ought adopt further remedial measures to preserve and promote development of DTV by U-to-U DTV UHF stations.

¹⁷ALTV Petition at 15.

Other objections to ALTV's proposal are similarly wide of the mark. Fox Television Stations, Inc. ("Fox"), complains that under ALTV's proposal, "Service to cable headends will be affected by this increase in acceptable interference, as well as service directly to home receivers."¹⁸ While obvious, Fox's contention neglects the significant differences between the types of receiving equipment used by cable systems and even rural home viewers. In particular, the use of highly directionalized receiving antennas by cable systems and CARS relays from more proximate headends are likely to preserve the ability of cable systems to provide UHF NTSC signals without degradation. Pulitzer Broadcasting Company ("Pulitzer") also opposes the ALTV proposal, apparently as one which would involve "widespread changes in the initial DTV Table and related rules."¹⁹ Pulitzer's alarm arises from concern about "significant delays, requiring extensive Commission resources, and likely creating yet another set of objections leading to additional reconsideration petitions and conflict among licensees."²⁰ Left unsaid by Pulitzer is how ALTV's proposal might result in any of these purportedly dire consequences. As noted above, ALTV's proposal is extraordinarily modest and, thus, hardly is deserving of Pulitzer's unsubstantiated fears.

If many proposals are damned by faint praise, ALTV's appears more praised by faint damnation. Indeed, no one disputes the underlying problem -- the low power levels assigned many U-to-U UHF DTV stations and the resultant inability of such stations to provide service even in parts of their Grade A contours. APTS and PBS state that they are "sensitive to the comparative position of UHF stations during the transition to DTV" and "share petitioners' concerns regarding

¹⁸Comments and Opposition to Petitions for Reconsideration, MM Docket No. 87-268, filed July 18, 1997, by Fox Television Stations, Inc., at 2, n.1.

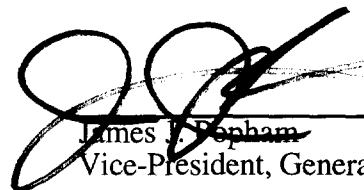
¹⁹Consolidated Opposition of Pulitzer Broadcasting Company to Petitions for Reconsideration, MM docket No. 87-268, filed July 18, 1997, by Pulitzer Broadcasting Company, at 2.

²⁰*Id.*

the power disparities suffered by U-to-U stations....”²¹ Even the Caucus Opposition itself righteously recites how MSTV and the Broadcaster Caucus have embraced “accommodations to promote maximization of smaller station’s facilities.”²²

In view of the above, ALTV submits that no valid objection has been raised to ALTV’s proposal to add a modicum of additional flexibility to the maximization process. Therefore, ALTV urges the Commission to adopt the proposal set forth in its Petition for Reconsideration in this proceeding.

Respectfully submitted,



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July 28, 1997

²¹AAPTS/PBS Opposition at 3.

²²Caucus Opposition at 13. ALTV might suggest that “smaller stations” is a euphemism for U-to-U UHF DTV stations, many of which would resist categorization as a “smaller station.” For example, ALTV doubts that anyone would consider WUPA-TV, Channel 69, Atlanta, a station subject to the 50kW minimum DTV power rule, a “smaller station.”

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "Reply to Oppositions to Petitions for Reconsideration" were served on this 28th day of July, 1997, via first class mail, postage prepaid, upon the following:

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